



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/166526

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 10, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on June 30, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner's FS benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Jose Silvestre

Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On May 26, 2015, the Petitioner submitted a request for FS benefits to the agency.
3. On May 27, 2015, the agency issued a Notice of Proof Needed to the Petitioner requesting employment and income verification for the Petitioner from [REDACTED]. The due date for the information for purposes of FS was June 25, 2015.

4. On June 1, 2015, the agency received verification from [REDACTED] that the Petitioner was on unpaid leave from March 31, 2015 – May 25, 2015 and that the Petitioner returned to work on May 26, 2015.
5. On June 2, 2015, the agency received verification that the Petitioner works 40 hours/week at \$15.50/hour. The agency updated her case incorrectly to show that she works 40 hours/biweekly.
6. Petitioner's household receives \$586/month in SS benefits. At the time of her application, the Petitioner had a rent expense of \$675/month. Petitioner's household size is four.
7. On June 3, 2015, the agency issued a Notice of Decision to the Petitioner notifying her that she would receive FS benefits of \$649 for May, 2015 and \$316 for June, 2015. She was also informed that her FS benefits would end on July 1, 2015 because her monthly household income exceeds the program limit.
8. On June 10, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

FoodShare eligibility and benefits are determined by a household's size and gross and net income. Gross household income includes all income from any source unless FoodShare regulations specifically exclude it. 7 CFR § 273.9(b). See 7 CFR § 273.9(c) for exclusions. A household must first pass a gross income test to determine FS eligibility. Generally, households whose non-excluded gross income exceeds 200% of the federal poverty level are ineligible for benefits. For a three-person household, the size of the petitioner's, the gross income limit is \$3,976 per month. FoodShare Wisconsin Handbook, § 8.1.1.

If a household's monthly gross income is below the gross income limit, the household must then pass a net income test. Net income is determined after subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d) from gross income.

The deductions include a standard deduction, which currently is \$165 per month for a four-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

In this case, the agency concedes that it initially erred in opening the Petitioner's case for FS benefits. It based her eligibility and allotment on 20 hours/week employment at \$15.50/hour at [REDACTED]. Petitioner and her employer accurately reported that she works 40 hours/week at \$15.50/hour. When the agency re-calculated the Petitioner's household income, her monthly gross income was determined to be \$3,252 (80 hours/week @ \$15.50/hour plus \$586/month in SS benefits). This is below the gross income limit of \$3,976 and therefore the Petitioner's household passed the gross income limit.

The agency then applied the deductions noted above to determine if the Petitioner's household passed the net income limit. A standard deduction of \$165 was applied. An earned income deduction of \$533.20 was applied (20% of earned income). The Petitioner was not eligible for a shelter deduction because her shelter and utility costs of \$1,121 (\$675 for rent and \$446 for utilities) did not exceed 50% of adjusted income. With an adjusted net income of \$2,553, the Petitioner's household is not eligible for FS benefits.

At the hearing the Petitioner testified that she was requesting benefits because when she was on her unpaid leave, she fell behind in her bills and needs assistance to catch up. Petitioner was advised that if

she is on leave, she can apply for FS benefits at the time of the leave. Petitioner further testified that her rent had recently increased to \$780. The Petitioner was advised to re-apply for benefits to determine if her increase in rent might result in FS eligibility.

Based on the evidence, I conclude that the agency properly discontinued the Petitioner's FS benefits effective July 1, 2015 based on the Petitioner's household income exceeding net income limits.

### **CONCLUSIONS OF LAW**

The agency properly discontinued the Petitioner's FS benefits effective July 1, 2015 based on the Petitioner's household income exceeding net income limits.

**THEREFORE, it is**

### **ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

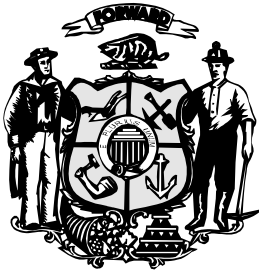
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 30th day of July, 2015

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals





**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on July 30, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability